

Application No. 10/028,315
Response dated March 30, 2004
Reply Office Action of December 31, 2003

REMARKS

Claims 6-9, 15-18, and 24-34 are pending in this application. No amendment is made in this Response.

Claims 6-9, 15-18, 24-27 and 29-34 were rejected under 35USC§102(b) as being anticipated by, or alternatively, under 35USC§103(a) as being obvious over Cain (US Patent 5,681,608).

Applicant traverses the rejection because of the following reasons:

(1) First, the office action asserts that the improved digestability of the fat of Cain would lead one to suspect that the property of reducing lipids in blood would have been inherent to the use of the fat of Cain. Office Action, page 3, lines 5-7. Contrary to the examiner's statement, it is well-know to one skilled in the art that improvement of fat's digestability results in raising lipids in blood.

Applicant submits a paper, "Absorption and Metabolism of Lipids in Rats Depend on Fatty Acid Isomeric Position" of Aoyama et al. for reference. Mr. Aoyama is the inventor of the

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present invention.

See the columns of "POP+C" and "PPO+C" of Table 4 of the paper, showing absorption efficiency of fatty acid and cholesterol by rats, which have been fed diets containing 1,3-dipalmitoyl-2-oleoyl glyceride (POP) or 1(3),2-dipalmitoyl-3(1)-oleoyl-glycerol-rich oil (PPO) with cholesterol (C). Regarding fatty acids, the absorption of palmitic acid of "PPO+C (94.1 ± 0.76)" fed rats is higher than that of "POP+C(75.9 ± 0.88)" fed rats. Regarding cholesterol, the absorption of "PPO+C (58.6 ± 4.44)" fed rats is higher than that of "POP+C(35.0 ± 3.83)" fed rats.

Then, see the columns of "POP+C" and "PPO+C" of Table 5 of the paper, which showing concentration of plasma lipids of rats, which have been fed diets containing 1,3-dipalmitoyl-2-oleoyl glyceride (POP) or 1(3),2-dipalmitoyl-3(1)-oleoyl-glycerol-rich oil (PPO) with cholesterol (C). Regarding the total cholesterol, the absorption of "PPO+C (5.28)" fed rats is higher than that of "POP+C (4.32)" fed rats.

From the results of the above, it is common knowledge to one skilled in the art that the higher the digestability of fats is, the higher the lipids in blood are

Thus, in accordance with the common knowledge to one skilled in the art, the improved

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digestability of the fat, as taught by Cain, would lead one to suspect that the property of reduction of lipids in blood would **not** have been inherent to the use of the fat, but rather would lead one to suspect that the use of the fat increases lipids in blood.

(2) Second, Applicant submits a declaration under 37CFR 1.132. As shown by the declaration, the “8.O.8” rich group of the present invention absorbs triglycerides as much as the control group, and slightly higher than the “O.8.8” rich group. According to the common knowledge to the one skilled in the art, the “8.O.8” rich group of the present invention would be expected to have a high value of the lipids in blood, since the “8.O.8” rich group absorbs the triglycerides more than “O.8.8” rich group. However, as shown in Table 3 of the specification at page 19, the “8.O.8” rich group shows a concentration of total cholesterol significantly lower than the “O.8.8” rich group, which means that the lipids in blood are reduced. This result is contrary to the common knowledge of the one skilled in the art, and can be an unexpected result of the present invention.

(3) While Cain teaches and claims that “L” is mono- or poly-unsaturated fatty acid residue (col. 2, line 10, and claim 1), Examples of Cain only uses linoleic acid (col.3, lin 34), which produces the M₂L triglyceride, in which “L” is **di**-unsaturated fatty acid. There is no specific example in Cain that “L” is mono-unsaturated fatty acid residue. On the other hand, the triglyceride of the present invention includes R_L, that is, an acyl group of a **mono**-unsaturated long

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fatty acid having 16 to 18 carbon atoms. As described in Table 3 of the specification at page 19, the total cholesterol of the group rich in "8.O.8" (226 ± 8) is lower than that of "O.8.8" (264 ± 13).

Although the "8.O.8" fed rats absorb triglycerides slightly higher than the "O.8.8" fed rats according to the declaration, the group rich in "8.O.8" (226 ± 8) contrary shows the total cholesterol much lower than that of "O.8.8" (264 ± 13), which means that the lipids in blood are reduced. These results can be nothing other than the unexpected results of the present invention.

Since Cain discloses no specific example falling within the scope of the present invention, and since the present invention as recited in the claims shows unexpected results the claimed triglyceride is not anticipated by Cain, and the unexpected result also renders the claims unobvious. MPEP2131.03. Reconsideration of the rejection is respectfully requested.

(4) In view of the aforementioned amendments, Applicant submits that claims 6-9, 15-18, and 24-34, as herein amended, are in condition for allowance. Applicants request such action at an early date.

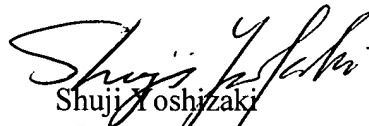
If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case. The limited recognition of the agent is attached.

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In the event that this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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Limited Recognition

Attachment: Limited Recognition

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